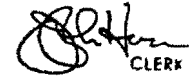


UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
WESTERN DIVISION

FILED

OCT 08 2013


CLERK

UNITED STATES OF AMERICA,

Plaintiff,

vs.

SAMONE DARLA MILK,
a/k/a Samone Darla Long Pumpkin,
HEATHER MARIE GARCIA,
a/k/a Heather Marie Brings Plenty,
JOE MARQUIOS GARCIA, and
WAYNE WILSON CORTIER,

Defendants.

CR 13-50130-01

INDICTMENT

-02
-03
-04

Conspiracy to Commit Theft
Concerning Programs Receiving
Federal Funds; Theft Concerning
Programs Receiving Federal Funds;
Aiding and Abetting

18 U.S.C. §§ 371, 666(a)(1)(A), and 2

The Grand Jury charges:

COUNT 1.
Conspiracy

A. Relevant Persons and Entities:

At all times relevant to this Indictment:

1. The Oglala Sioux Tribe ("Tribe") is an Indian tribal government that receives federal assistance in excess of \$10,000 in a one-year period.

2. The Low Income Home Energy Assistance Program ("LIHEAP") is a block grant program administered by the United States Department of Health and Human Services. Its purpose is to assist low-income households with meeting their immediate home energy needs. It provides funds for heating assistance, cooling assistance, crisis intervention assistance, and weatherization. LIHEAP funds are awarded to the Tribe and managed by the Tribe's Energy/LIHEAP program.
3. The Community Services Block Grants (CSBG) is a block grant program administered by the United States Department of Health and Human Services. Its purpose is to provide funds to alleviate the causes and conditions of poverty in communities. CSBG funds are awarded to the Tribe and managed by the Tribe's Energy/LIHEAP program.
4. Samone Darla Milk, a/k/a Samone Darla Long Pumpkin (hereinafter "Milk") was an agent of the Tribe in that she was an employee of the Tribe's Energy/LIHEAP program. She was employed as an Executive Secretary, and her duties included processing eligible requests from tribal members and submitting vouchers and invoices for tribal contractors after they completed the requested work.

5. Heather Marie Garcia, a/k/a Heather Marie Brings Plenty (hereinafter "Heather Garcia") was an agent of the Tribe in that she was an employee of the Tribe's Treasurer's Office. She was employed as an Accounts Payable Technician, and her duties included processing tribal expenditures.
6. Joe Marquios Garcia (hereinafter "Joe Garcia") was a contractor with the Tribe, and as such was authorized to perform work on behalf of the Tribe. He was also the husband of Heather Garcia.
7. Wayne Wilson Cortier (hereinafter "Cortier") was a contractor with the Tribe, and as such was authorized to perform work on behalf of the Tribe.

B. The Conspiracy:

Beginning on or about May 29, 2009, and continuing through December 14, 2009, in Shannon County, in the District of South Dakota and elsewhere, the Defendants, Samone Darla Milk, a/k/a Samone Darla Long Pumpkin, Heather Marie Garcia, a/k/a Heather Marie Brings Plenty, Joe Garcia, and Wayne Cortier, did knowingly and willfully conspire and agree together and with each other to commit the offense of theft concerning programs receiving federal funds, in violation of 18 U.S.C. § 666(a)(1)(A). Defendants willfully and unlawfully conspired to knowingly and intentionally embezzle, steal, obtain by fraud, without authority knowingly convert to the

use of a person other than the rightful owner, and intentionally misapply property worth at least \$5,000 which was owned by and under the care, custody, or control of the Oglala Sioux Tribe, an organization, government, and agency which received in any one year period federal assistance in excess of \$10,000, all while being agents of the Tribe. Defendants acted willfully, for the purpose of enriching themselves, all as described and set forth below, and knew of the unlawful purpose of the conspiracy when they participated in it.

C. Object of the Conspiracy:

The object of the Defendants' conspiracy was personal enrichment by fraudulently obtaining federal funds from the Tribe.

D. Manner and Means of the Conspiracy:

1. Among other functions, the Tribe's Energy/LIHEAP program assists low-income tribal members with meeting their immediate home energy needs by assigning and paying tribal contractors to perform work on homes, including repairs and weatherization. It also provides financial assistance to eligible tribal members by paying tribal contractors to move trailer homes if the move qualifies under the program's policies.
2. The Defendants prepared false and fraudulent documents, including but not limited to requests for assistance, invoices, and vouchers, on behalf of real or fictitious tribal members. The

documents purportedly claimed that assistance was needed and that work was completed by a particular contractor. However, as the Defendants then and there knew, no assistance was requested nor was work actually completed.

3. Milk facilitated the processing and approval of these documents through the Tribe's Energy/LIHEAP program.
4. Heather Garcia facilitated the processing and approval of some of these documents through the Tribe's Treasurer's Office.
5. After the documents were processed, the Tribe's Treasurer's Office issued checks made payable to a particular contractor. The checks were drawn on tribal accounts that contained LIHEAP and CSBG funds.
6. The Defendants received the checks, cashed them, and divided the funds among themselves.

E. Overt Acts in Furtherance of the Conspiracy:

In furtherance of the conspiracy and to effect the objects thereof, the Defendants did commit the following overt acts, as well as others, in the District of South Dakota:

1. Milk and Heather Garcia drafted false and fraudulent invoices or quotes for contract work to purportedly be completed by Joe Garcia and his business, Garcia and Sons. The invoices or quotes

were signed by either Joe Garcia or by Heather Garcia forging Joe Garcia's signature. Heather Garcia provided the invoices or quotes to Milk at the Tribe's Energy/LIHEAP program.

2. Milk drafted false and fraudulent invoices or quotes for contract work to purportedly be completed by Cortier. The invoices or quotes were signed by either Cortier or by Milk forging Cortier's signature.
3. Milk completed and processed requisitions and accounts payable vouchers, and submitted them, along with the invoices or quotes, to the Tribe's Treasurer's Office.
4. Heather Garcia processed the documents pertaining to Joe Garcia or his business, Garcia and Sons, and ensured that checks were issued.
5. Milk received the vendor checks from the Tribe's Treasurer's Office and distributed them.
6. The checks payable to Joe Garcia or his business, Garcia and Sons, were endorsed by either Joe Garcia or by Heather Garcia forging Joe Garcia's signature.
7. The checks payable to Cortier were endorsed by Cortier.
8. The checks were cashed by the Defendants, and they divided the proceeds among themselves.

The Defendants' actions were in violation of 18 U.S.C. §§ 371 and 666(a)(1)(A).

COUNT 2.
Theft Concerning Programs Receiving Federal Funds

All of the allegations set forth in Count 1 are realleged and incorporated herein.

Between on or about May 29, 2009, and December 14 2009, in Shannon County, in the District of South Dakota and elsewhere, Defendants Samone Darla Milk, a/k/a Samone Darla Long Pumpkin, Heather Marie Garcia, a/k/a Heather Marie Brings Plenty, and Joe Garcia, being agents of the Oglala Sioux Tribe, an organization and agency that, during calendar year 2009, received benefits in excess of \$10,000 under a federal program involving a grant, contract, subsidy, loan, guarantee, insurance, and other form of federal assistance, did knowingly and intentionally embezzle, steal, obtain by fraud, without authority knowingly convert to the use of a person other than the rightful owner, and intentionally misapply property worth at least \$5,000 which was owned by and under the care, custody, or control of the Oglala Sioux Tribe, and did aid and abet each other in committing the offense. The Defendants' actions were in violation of 18 U.S.C. §§ 666(a)(1)(A) and 2.

COUNT 3.

Theft Concerning Programs Receiving Federal Funds

All of the allegations set forth in Count 1 are realleged and incorporated herein.

Between on or about July 1, 2009, and November 10, 2009, in Shannon County, in the District of South Dakota and elsewhere, Defendants Samone Darla Milk, a/k/a Samone Darla Long Pumpkin and Wayne Wilson Cortier, being an agents of the Oglala Sioux Tribe, an organization and agency that, during calendar year 2009, received benefits in excess of \$10,000 under a federal program involving a grant, contract, subsidy, loan, guarantee, insurance, and other form of federal assistance, did knowingly and intentionally embezzle, steal, obtain by fraud, without authority knowingly convert to the use of a person other than the rightful owner, and intentionally misapply property worth at least \$5,000 which was owned by and under the care, custody, or control of the Oglala Sioux Tribe, and did aid and abet each other in committing the offense. The Defendants' actions were in violation of 18 U.S.C. §§ 666(a)(1)(A) and 2.

A TRUE BILL:

name redacted

FOREPERSON

BRENDAN V. JOHNSON
United States Attorney

By: 